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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 JEANNIE ATIENZA, individually and as
successor-in-interest to Decedent
13 LAUDEMERA ARBOLEDA,

14 Plaintiff,

15 v.

16 TOWN OF DANVILLE, a municipal
corporation; COUNTY OF CONTRA
COSTA, a municipal corporation;
17 ANDREW HALL, individually and in his
capacity as a City of Danville Police
Officer; and DOES 1-50 inclusive,

18 Defendants.
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No. C19-03440 RS

AMENDED ANSWER OF DEFENDANT
ANDREW HALL TO FOURTH AMENDED
COMPLAINT

Crtrm: 3, 17th Floor
Judge: Hon. Richard Seeborg, Presiding
Date Action Filed: June 17, 2019
Trial Date: None Assigned

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21 Defendant Andrew Hall (“Hall” or “Defendant”), in response to Plaintiff Jeannie
22 Atienza’s Fourth Amended Complaint, admits, denies, and raises affirmative defenses as
23 hereinafter set forth:

24 **I. JURISDICTION and VENUE**

25 1. Answering Paragraph 1 of Plaintiff’s Fourth Amended Complaint, Defendant
admits that Laudemer Arboleda was shot on November 3, 2018 in the Town of Danville and
26 that Mr. Arboleda was the subject of a police pursuit after Mr. Arboleda committed violations
27 of state law. Defendant lacks sufficient information or belief sufficient to admit or deny the
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1 remaining allegations of this paragraph and therefore, based on a lack of information or belief,
2 denies said allegations.

3 2. Answering Paragraph 2 of Plaintiff's Fourth Amended Complaint, Defendant
4 admits that he heard reports that Mr. Arboleda was fleeing from police officers, that Mr.
5 Arboleda drove his vehicle in such a manner as to cause Defendant to fear for his safety and
6 the safety of others, that Defendant in fear for his safety and the safety of others discharged his
7 firearm multiple times, one of which was fatal, and that following the discharge of
8 Defendant's firearm, Mr. Arboleda's vehicle continued forward until it hit another vehicle.
9 Defendant denies the remaining allegations of this paragraph.

10 3. Answering Paragraph 3 of Plaintiff's Fourth Amended Complaint, Defendant
11 lacks information or belief sufficient to admit or deny the allegations that Mr. Arboleda's
12 father and mother are still living and, therefore, based on a lack of information or belief,
13 denies those allegations. Defendant denies the remaining allegations in this paragraph.

14 4. Answering Paragraph 4 of Plaintiff's Fourth Amended Complaint, Defendant
15 admits that Plaintiff asserts federal claims against Defendant under 42 U.S.C. section 1983,
16 that the alleged acts took place in Danville, CA, and that venue is proper in this court.
17 Defendant denies the remaining allegations in this paragraph, if any.

18 5. Answering Paragraph 5 of Plaintiff's Fourth Amended Complaint, Defendant
19 lacks sufficient information or belief sufficient to admit or deny the allegations of this
20 paragraph and therefore, based on a lack of information or belief, denies said allegations.

21 6. Answering Paragraph 6 of Plaintiff's Fourth Amended Complaint, Defendant
22 lacks sufficient information or belief sufficient to admit or deny the allegations of this
23 paragraph and therefore, based on a lack of information or belief, denies said allegations.

24 7. Answering Paragraph 7 of Plaintiff's Fourth Amended Complaint, Defendant
25 lacks sufficient information or belief sufficient to admit or deny the allegations of this
26 paragraph and therefore, based on a lack of information or belief, denies said allegations.

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1 8. Answering Paragraph 8 of Plaintiff's Fourth Amended Complaint, Defendant
2 lacks sufficient information or belief sufficient to admit or deny the allegations of this
3 paragraph and therefore, based on a lack of information or belief, denies said allegations.

4 9. Answering Paragraph 9 of Plaintiff's Fourth Amended Complaint, Defendant
5 admits that at the time of the incident, he was a Contra Costa County Deputy Sheriff assigned
6 to work in the Town of Danville and that he is sued in his individual capacity. Defendant
7 denies the remaining allegations of this paragraph.

8 10. Answering Paragraph 10 of Plaintiff's Fourth Amended Complaint, Defendant
9 lacks sufficient information or belief sufficient to admit or deny the allegations of this
10 paragraph and therefore, based on a lack of information or belief, denies said allegations.

11 11. Answering Paragraph 11 of Plaintiff's Fourth Amended Complaint, Defendant
12 admits that his alleged actions were taken while on duty, in uniform and driving a marked
13 police vehicle and denies the remaining allegations of this paragraph.

14 12. Answering Paragraph 12 of Plaintiff's Fourth Amended Complaint, Defendant
15 admits that his alleged actions were taken while on duty, in uniform and driving a marked
16 police vehicle and denies the remaining allegations of this paragraph.

17 13. Answering Paragraph 13 of Plaintiff's Fourth Amended Complaint, Defendant
18 lacks sufficient information to admit or deny the allegations of this paragraph and, therefore,
19 based on a lack of information or belief, denies said allegations.

20 14. Answering Paragraph 14 of Plaintiff's Fourth Amended Complaint, Defendant
21 lacks sufficient information to admit or deny the allegations of this paragraph and, therefore,
22 based on a lack of information or belief, denies said allegations.

23 15. Answering Paragraph 15 of Plaintiff's Fourth Amended Complaint, Defendant
24 lacks sufficient information to admit or deny the allegations of this paragraph and, therefore,
25 based on a lack of information or belief, denies said allegations.

26 16. Answering Paragraph 16 of Plaintiff's Fourth Amended Complaint, Defendant
27 lacks sufficient information to admit or deny the allegations of this paragraph and, therefore,
28 based on a lack of information or belief, denies said allegations.

1 17. Answering Paragraph 17 of Plaintiff's Fourth Amended Complaint, Defendant
2 denies the allegations of this paragraph.

3 18. Answering Paragraph 18 of Plaintiff's Fourth Amended Complaint, Defendant
4 denies the allegations of this paragraph.

5 19. Answering Paragraph 19 of Plaintiff's Fourth Amended Complaint, Defendant
6 admits that he saw Mr. Arboleda driving towards him, and fearing for his safety and that of
7 others discharged his firearm, causing Mr. Arboleda to be struck by one or more bullets.
8 Defendant denies the remaining allegations of this paragraph.

9 20. Answering Paragraph 20 of Plaintiff's Fourth Amended Complaint, Defendant
10 admits that Mr. Arboleda died as a result of being shot by Defendant and denies the remaining
11 allegations of this paragraph.

12 21. Answering Paragraph 21 of Plaintiff's Fourth Amended Complaint, Defendant
13 denies the allegations of this paragraph.

14 22. Answering Paragraph 22 of Plaintiff's Fourth Amended Complaint, Defendant
15 denies the factual allegations of this paragraph, if any.

16 23. Answering Paragraph 23 of Plaintiff's Fourth Amended Complaint, Defendant
17 denies the allegations of this paragraph.

18 24. Answering Paragraph 24 of Plaintiff's Fourth Amended Complaint, Defendant
19 denies the allegations of this paragraph.

20 25. Answering Paragraph 25 of Plaintiff's Fourth Amended Complaint, Defendant
21 denies the allegations of this paragraph.

22 26. Answering Paragraph 26 of Plaintiff's Fourth Amended Complaint, Defendant
23 denies the allegations of this paragraph.

24 27. Answering Paragraph 27 of Plaintiff's Fourth Amended Complaint, Defendant
25 incorporates by reference his responses to Paragraphs 1 through 26 of the Fourth Amended
26 Complaint as if fully set forth.

27 28. Answering Paragraph 28 of Plaintiff's Fourth Amended Complaint, Defendant
28 denies the allegations of this paragraph.

1 29. Answering Paragraph 29 of Plaintiff's Fourth Amended Complaint, Defendant
2 incorporates by reference his responses to Paragraphs 1 through 28 of the Fourth Amended
3 Complaint as if fully set forth.

4 30. Answering Paragraph 30 of Plaintiff's Fourth Amended Complaint, Defendant
5 denies the allegations of this paragraph.

6 31. Answering Paragraph 31 of Plaintiff's Fourth Amended Complaint, Defendant
7 incorporates by reference his responses to paragraphs 1 through 30 as if fully set forth.

8 32. Answering Paragraph 32 of Plaintiff's Fourth Amended Complaint, Defendant
9 denies the allegations of this paragraph.

10 33. Answering Paragraph 33 of Plaintiff's Fourth Amended Complaint, Defendant
11 denies the allegations of this paragraph.

12 34. Answering Paragraph 34 of Plaintiff's Fourth Amended Complaint, Defendant
13 incorporates by reference his responses to paragraphs 1 through 33 as if fully set forth.

14 35. Answering Paragraph 35 of Plaintiff's Fourth Amended Complaint, Defendant
15 denies the allegations of this paragraph.

16 36. Answering Paragraph 36 of Plaintiff's Fourth Amended Complaint, Defendant
17 incorporates by reference his responses to paragraphs 1 through 35 as if fully set forth.

18 37. Answering Paragraph 37 of Plaintiff's Fourth Amended Complaint, Defendant
19 denies the allegations of this paragraph.

20 38. Answering Paragraph 38 of Plaintiff's Fourth Amended Complaint, Defendant
21 responds that this paragraph does not contain any factual allegations.

AFFIRMATIVE DEFENSES

23 1. Further answering the Fourth Amended Complaint and the separate causes of
24 action thereof, and as a separate and distinct affirmative defense thereto, Defendant alleges
25 that at all times herein mentioned, all actions taken by Defendant were reasonable under the
26 circumstances and taken under a good faith belief that the actions were lawful, and Defendant
27 is, therefore, immune under the Good Faith Immunity Doctrine.

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1 2. Further answering the Fourth Amended Complaint and the separate causes of
2 action thereof, and as a further, separate and distinct affirmative defense thereto, Defendant
3 alleges that said Fourth Amended Complaint fails to state facts sufficient to constitute a cause
4 of action against said answering Defendant.

5 3. Further answering the Fourth Amended Complaint and the separate causes of
6 action thereof, and as a further, separate and distinct affirmative defense thereto, Defendant
7 alleges that he is immune from liability and cannot be held liable for any injury that may have
8 been sustained by Plaintiff, which injury Defendant specifically denies, and that Defendant
9 was at all relevant times performing duties in an objectively reasonable manner, within lawful
10 responsibilities, and is, therefore, immune from suit.

11 4. Further answering the Fourth Amended Complaint and the separate causes of
12 action thereof, and as a further, separate and distinct affirmative defense thereto, Defendant
13 alleges that Plaintiff's action is barred by the equitable doctrines of laches, estoppel, and
14 waiver, in that Plaintiff unreasonably delayed in taking action and/or making the claims
15 alleged in this lawsuit with respect to the events alleged in the Fourth Amended Complaint,
16 even though she knew or should have known in the exercise of reasonable diligence of the
17 injuries and causes of injuries alleged in the Fourth Amended Complaint.

18 5. Further answering the Fourth Amended Complaint and the separate causes of
19 action thereof, and as a further, separate and distinct affirmative defense thereto, Defendant
20 alleges that Plaintiff failed to mitigate her damages, and said damages are reduced or
21 eliminated in proportion to said failure to mitigate.

22 6. Further answering the Fourth Amended Complaint and the separate causes of
23 action thereof, and as a further, separate and distinct affirmative defense thereto, Defendant
24 alleges that at all relevant times alleged in the Fourth Amended Complaint, Defendant acted
25 reasonably and in good faith under all the circumstances known to him, and not in violation of
26 any clearly established right of Plaintiff or Mr. Arboleda of which a reasonable official in the
27 Defendant's position would have known and Defendant is, therefore, qualifiedly immune from
28 suit herein.

1 7. Further answering the Fourth Amended Complaint and the separate causes of
2 action thereof, and as a further, separate and distinct affirmative defense thereto, Defendant
3 alleges that Plaintiff and Mr. Arboleda each has acted inequitably and/or have failed to act
4 equitably, and to that extent, Plaintiff's action and/or recovery in this action is barred by the
5 equitable doctrine of unclean hands.

6 8. Further answering the Fourth Amended Complaint and the separate causes of
7 action thereof, and as a further, separate and distinct affirmative defense thereto, Defendant
8 alleges that Mr. Arboleda was himself negligent and/or acted unlawfully, and that his conduct
9 was a proximate and/or legal cause of his and Plaintiff's alleged damages.

10 9. Further answering the Fourth Amended Complaint and the separate causes of
11 action thereof, and as a further, separate and distinct affirmative defense thereto, Defendant
12 alleges that in the event that the trier of fact finds any liability on the part of this answering
13 Defendant, which liability is herein denied, this answering Defendant will seek the benefit of
14 several liability for non-economic damages as provided in Civil Code sections 1431-1431.5.

15 10. Further answering the Fourth Amended Complaint and the separate causes of
16 action thereof, and as a further, separate and distinct affirmative defense thereto, Defendant
17 alleges that if Defendant is adjudged, decreed, or otherwise determined to be liable to Plaintiff,
18 which Defendant denies, Defendant will be entitled to apportion the degree of his fault or
19 responsibility for the acts alleged in the Fourth Amended Complaint attributable to Mr.
20 Arboleda, Plaintiff or to any other defendants named or yet to be named. The amount of
21 damages attributable to answering Defendant is to be abated, reduced, or eliminated to the
22 extent that Mr. Arboleda's or Plaintiff's own negligence or wrongdoing, or the negligence or
23 wrongdoing of any other defendant or third party, contributed to the Plaintiff's claimed
24 damages, if any there were.

25 11. Further answering the Fourth Amended Complaint and the separate causes of
26 action thereof, and as a further, separate and distinct affirmative defense thereto, Defendant
27 alleges that his acts were not a substantial or proximate cause of any injury to Mr. Arboleda or
28 Plaintiff.

1 12. Further answering the Fourth Amended Complaint and the separate causes of
2 action thereof, and as a further, separate and distinct affirmative defense thereto, Defendant
3 claims all defenses and immunities provided by the federal statute asserted by Plaintiff in this
4 action and relevant state statutes and regulations.

5 13. Further answering the Fourth Amended Complaint and the separate causes of
6 action thereof, and as a further, separate and distinct affirmative defense thereto, Defendant
7 alleges that the facts and damages sought are in excess of and different from what was claimed
8 in the claim presented to the County pursuant to Government Code Section 910, and to that
9 extent, the asserted state claims are barred by failure to comply with the claim presentation
10 requirements of the California Government Code, sections 810 and following.

11 14. Further answering the Fourth Amended Complaint and the separate causes of
12 action thereof, and as a further, separate and distinct affirmative defense thereto, Defendant
13 alleges that the state law claims are barred due to a failure to comply with the claims reporting
14 provisions of Government Code Sections 900 through and including 946.6.

15 15. Further answering the Fourth Amended Complaint and the separate causes of
16 action thereof, and as a further, separate and distinct affirmative defense thereto, Defendant
17 alleges that he is immune from state civil liability pursuant to the provisions of California
18 Penal Code sections 196 and 835a.

PRAYER

WHEREFORE, Defendant prays as follows:

1. That Plaintiff take nothing by the Fourth Amended Complaint;
 2. That Plaintiff's Fourth Amended Complaint against him be dismissed in its entirety;
 3. For award of costs, attorney fees, and expenses of suit against Plaintiff pursuant to 42 U.S.C. section 1988; and
 4. For such other and further relief as justice may require and the law allow.

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JURY TRIAL DEMAND

Defendant demands trial by jury in this action on all claims as to which the right to trial by jury attaches.

DATED: March 4, 2021

SHARON L. ANDERSON
COUNTY COUNSEL

By: /s/ D. Cameron Baker
D. CAMERON BAKER
Deputy County Counsel

Attorneys for Defendant Andrew Hall